IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.2498 OF 2006

M/s.Dolphin Offshore Enterprises India Ltd. ...Petitioner.
Vs.
Mr. P.N. Kumaran & Anro. ...Respondents.
....
Mr. R. V. Paranjape for the Petitioner.
Mr. V. A. Pai for the Respondents.
.....

CORAM : DR.D.Y.CHANDRACHUD, J.

October 4, 2006.

P.C.

The Industrial Court has dismissed the complaint filed by the First Respondent under Item 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, holding that the core of controversy relates to the termination of the services of the First Respondent. Consequently, it was held that under Item 1 of Schedule IV, the jurisdiction to entertain the complaint in regard to the validity of the termination vis-a-vis the First Respondent would lie before the Labour Court. Counsel appearing on behalf of the First Respondent states that as a matter of fact, the Labour Court has been moved in a fresh complaint. Since the complaint was

dismissed by the Industrial Court on the ground that it has no jurisdiction to entertain the complaint, questioning the validity of the termination of the services of the workman, the correctness of the finding of the Industrial Court on the other issues, namely, whether the First Respondent was a workman and whether there was an unfair labour practice on the part of the employer, does not call for determination. All the issues that have been raised in the fresh complaint that has been filed before the Labour Court would be dealt with uninfluenced by any of the observations contained in the order dated 26th September 2005. In that view of the matter, Counsel appearing on behalf of the Petitioner does not press for any further reliefs in this petition since the aforesaid clarification, the Court is informed, would meet the apprehension of the Petitioner.

Counsel appearing on behalf of the Petitioner and the First Respondent are agreed in stating before the Court that since evidence was adduced before the Industrial Court in Complaint (ULP) 856 of 2000 with regard to the question as to whether the First Respondent is a workman and the validity of the termination, that evidence, both oral and documentary, already adduced may

be read and considered as evidence before the Labour Court in the fresh complaint. In the event that any of the parties desires to lead any additional evidence, it would be open to the concerned parties to make an application before the Labour Court which shall pass appropriate orders thereon.

Having regard to the fact that the termination took place in the year 1999, the Labour Court is requested to expedite the disposal of the complaint preferably within a period of six months from the date on which a certified copy of this order is placed before the Labour Court .

The Petition is dismissed.

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